

UTAH AIR QUALITY BOARD MEETING
December 3, 2008
168 North 1950 West, Room 101
Salt Lake City, Utah 84116

FINAL MINUTES

I. Call-to-Order

Ernie Wessman called the meeting to order at 1:30 p.m.

Board members present: Nan Bunker, Jim Horrocks, Ernest Wessman, Kathy Van Dame, Steve Sands, Joel Elstein, Rick Sprott, Wayne Samuelson, Darrell Smith, and Craig Petersen

Excused: Stead Burwell

Executive Secretary: Cheryl Heying

II. Date of the Next Air Quality Board Meetings: January 7, 2009 and February 4, 2009.

III. Approval of the Minutes for October 1, 2008 Board Meeting/Working Lunch and November 5, 2008 Board Field Trip to Rio Tinto Smelter.

Ms. Van Dame made correction to the October 1, 2008, working lunch minutes. The third sentence of paragraph three was changed to "AOs go through a public review process. A source may have several AOs, there is not expiration date until the source makes a modification or shuts down." In addition, on the October 1, 2008, minutes the first "to" in the first sentence under the Compliance section of Informational Items should be removed.

- Kathy Van Dame moved to approve the listed minutes with the noted corrections. Nan Bunker seconded. The Board approved unanimously.

Mr. Wessman introduced public comment from Randy Parker, Chief Executive Officer of the Utah Farm Bureau. Mr. Parker on behalf of the Utah Farm Bureau expressed their appreciation to Rick Sprott for his relationship to their organization over the years and then presented Mr. Sprott with a Friend of Farm Bureau Award.

IV. Final Adoption: Amend R307-121, General Requirements: Clean Fuel Vehicle Tax Credits, and Five Year Review: R307-121, General Requirements: Clean Fuel Vehicle Tax Credits. Presented by Mat Carlile.

Mat Carlile, Environmental Planning Consultant at DAQ, stated that on September 3, 2008, the Air Quality Board proposed for comment amendments to R307-121. No oral or written comments were received. DAQ staff recommends that R307-121 be adopted as proposed.

DAQ has also completed a five year review for R307-121 and as a separate action item staff recommends that the Board continue this rule by approving the attached forms to be filed with the Division of Administrative Rules.

- Kathy Van Dame moved to approve final adoption and the five year review of R307-121. Darrell Smith seconded. The Board approved unanimously.

V. Propose for Public Comment: Amend R307-101-3, General Requirements: Version of Code of Federal Regulations Incorporated by Reference. Presented by Dave McNeill.

Dave McNeill, SIP/Rules Section Manager at DAQ, stated on February 2, 2008, the Board approved R307-101-3 that incorporates by reference the current Code of Federal Regulations (CFR) used in a majority of the rules adopted by the Board. This allows the rules that reference R307-101-3 to update the incorporation date with only one rule amendment. Before this, every time the CFR was revised, we would have to amend several rules that incorporate the CFR into the Rules. DAQ is proposing that R307-101-3 be revised to reference the latest version of the CFR dated July 1, 2008. Also, attached is a list of all changes to the CFR and the rules that reference those changes so that the Board can see the results of the proposed changes to the rules. There are some rules on the list of changes that were not referenced because they need to remain the same and will be discussed in the next agenda item. Staff recommends that the Board propose the amended R307-101-3 for public comment.

Mr. McNeill further explained that only following the Board approval of this proposal to update the version of the CFR incorporated in R307-101-3 will it be necessary to make the changes to R307-840 to be proposed in the next agenda item.

- Nan Bunker moved to propose for public comment, amend R307-101-3. Rick Sprott seconded. The Board approved unanimously.

VI. Propose for Public Comment: Amend R307-840, Lead-Based Paint Accreditation, Certification and Work Practice Standards. Presented by Dave McNeill.

Mr. McNeill stated on April 22, 2008, EPA published their changes to 40 CFR Part 745: Lead; Renovation, Repair, and Painting Program. That change creates a new federal program that would implement a program that DAQ does not currently have authority to implement. DAQ is proposing that the Board adopt an amendment to R307-840 where the reference to the version of the CFR incorporated into the Rules at R307-101-3 be removed and replaced with a reference to the CFR dated July 1, 2007.

Robert Ford, Air Toxics Section Manager at DAQ, stated on April 22, 2008, EPA promulgated a new regulation for a new administrative rule for a lead-based paint program that would oversee renovation and remodeling activities in pre-1978 housing and child occupied facilities. As part of that EPA rulemaking, EPA reiterated that DAQ's program must follow the same program authorization practice that was required in the past with the lead-based paint abatement program as well as the lead-based paint pre-renovation education program, which includes specific rulemaking associated with these new rules that EPA promulgated. The EPA program authorization and delegation process includes this specific rulemaking process. Therefore, the DAQ cannot receive EPA program delegation by adopting the regulation by reference. It is our intent to come

to the Board in 2009 to request authorization to conduct public hearings necessary for program delegation of this new lead-based paint program.

In addition, Mr. Ford added that DAQ needs to go through public comment and rulemaking in order to qualify to run the program, which must include a letter from the Governor saying this program is equally protective of human health and the environment, and a statement from the Attorney General's Office stating our authority to do this.

Mr. Sands commented that there are probably other examples in the R307 rule series that would also be affected by reference of the CFR such as the new source performance standard. Mr. Sands also clarified that anywhere in the current R307 rule series where we have the date of the CFR we are just pointing back to one spot. If there is anything that is different from the CFR or inconsistent, it will be articulated in the individual rules. This may be an example of a case where Utah doesn't have primacy for a new standard and so the reference back by exclusion to an earlier version of the CFR is appropriate.

- Steve Sands moved to propose for public comment, amend R307-840 Lead-Based Paint Accreditation, Certification and Work Practice Standards. Rick Sprott seconded. The Board approved unanimously.

VII. Informational Items.

A. Update on the Diesel Retrofit Activities. Presented by Bryce Bird.

Bryce Bird, Planning Branch Manager at DAQ, stated that this program started in 2007 as a partnership between a number of state agencies, local governments, and other organizations such as Utah Clean Cities, the Metropolitan Planning Organizations, and Utah school districts throughout the state. First a prioritized list was established of eligible school busses for the best use of money for retrofits to improve air quality both outside the school bus from emissions that are on the road throughout the state, but also the air quality inside the school bus because those emissions impact the children inside. The focus was on those busses that would benefit most over time and had the biggest air quality improvement with the program. Mr. Bird referred to an equipment display as he explained the retrofit technology. Through the prioritization process they found that it would take about \$3.5 million to go through the entire program throughout the entire state and also the total cost to retrofit each school bus is about \$2,025. In addition, for this project the job was sent out for bid for a contractor to provide and install diesel retrofits to each school bus. The first bus is scheduled to be completed in mid-December.

Robin Erickson, Utah Clean Cities Coalition and former fleet manager at Newspaper Agency, added that they have been working on school bus idling with the school districts throughout the state. Over 3,000 school bus drivers have pledged to reduce their idling time and the coalition is currently tracking idle reduction and conducting surveys.

Mr. Wessman introduced Fred Nelson of the Attorney General's Office and counsel to the Board for comment. Mr. Nelson updated the Board on the Utah Court of Appeals decision to deny Mr. Kennon and Mr. Cumiskey's request to intervene in the Intermountain Power Project permit proceeding.

B. Air Quality Monitoring in Park City. Presented by Park City Chapter of Utah Moms for Clean Air.

Kathy Lofft, co-founder of the Park City chapter of the Utah Moms for Clean Air (UMCA), addressed the Board in response to their October 2008 letter to DAQ. Ms. Lofft stated that they were informed by the county Board of Health that monitors had been provided by DAQ to monitor concentrations of PM2.5 in western Summit County over a three month limited testing period last year. The UMCA had hoped that the limited testing represented the initial stages of a process that would lead to a more comprehensive and thorough examination to establish a baseline for air quality in Summit County. They feel that the limited testing period, which also did not test for other pollutants regulated through the national ambient air quality standards (NAAQS), was not enough time to assert that the air in Summit County is clean.

Mary Jacquin, co-chair of the Park City chapter of UMCA, added that as new transit options are added and other modes of transportation encouraged in Summit County UMCA would like to see a collaborative relationship develop among their chapter, DAQ, and local and county authorities. UMCA asks that the DAQ reconsider its decision to remove the monitors from Summit County.

Mr. Bird responded that as a separate program DAQ has the ability to do special studies in conjunction with local health departments (LHD). It is usually at the request and funding of the LHD that DAQ is able to conduct these studies. The special study in Summit County was done in conjunction with the LHD and designed to be a short-term study for one winter season with the criteria that it cover inversion periods and be compared with the Salt Lake valley. The LHD provided the manpower, support, and identified the areas. DAQ provided the technical expertise, filter weighing and analysis, and reporting of this study.

After further discussion it was agreed that there would be collaboration among the parties to see if there is a way to get the needed data and at the same time do it within the budget constraints. In addition, the Board would like to hear progress reports on the collaboration and receive additional information on the study.

- C. Air Toxics. Presented by Robert Ford.**
- D. Compliance. Presented by Jay Morris and Harold Burge.**
- E. Monitoring. Presented by Bob Dalley.**

Mr. Dalley updated the Board on monitoring information. Also, the air monitoring network review was posted on the DAQ homepage on November 24, 2008, and is now out for public review. The public review will close on December 24, 2008.

In response to the Board inquiry on the ozone NAAQS due date, Ms. Heying answered that the recommendations go to the EPA in March 2009.

At the conclusion of the meeting, each Board member commented on Mr. Sprott's retirement from the State of Utah and presented him with a plaque in appreciation for his work on the Board, the Department of Environmental Quality, and State of Utah.

Meeting was adjourned at 2:48 p.m.

Minutes approved: February 4, 2009